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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,087	01/03/2002	John Jiin Chung Yang	USP1610A-CTI	7368

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3743

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DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicant N .

10/038,087

Applicant(s)

CHUNG YANG, JOHN JIIN

Examiner

CARL D. PRICE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06-25-2002 (preliminary amendment).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s)        is/are objected to.
- 8) ☐ Claim(s)        are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on        is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on        is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No.       .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s)
- 4) ☐ Interview Summary (PTO-413) Paper No(s)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### Election/Restrictions

Applicant's election without traverse of the species of **Figures 1 to 3F** in **Paper No. 4** is acknowledged. Applicant has indicated that claims **1-16** read on the elected embodiment.

Claims **17-20** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made without traverse in **Paper No. 4**.

### Specification

The disclosure is objected to because of the following informalities: On page 8, line 19 "relief" should be - - release - -.

Appropriate correction is required.

### Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter not described in the

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specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Figures 3A-3F schematically illustrate the relative movement of the pusher button (35) and locking member (43) during operation of the lighter from a locked condition to an unlocked condition, respectively. While it is clear the stopper (433) is moved, by a outer switch member (431) attached thereto, to various positions relative to the stop post (41) and guider latch (42) to achieve the various operating conditions (433) (shown in Figures 3D-3F), it is unclear how the pusher button (35) is necessarily capable of being translated relative to the stopper (433) to permit the stopper (433) to be orientation within the pusher button locking cavity (351). Since the outer switch member (431), connected to the stopper through housing slot (37), would necessarily engage any portion of the lower wall edge (illustrated as a line extending between the right and left hatched end walls of the pusher button as seen in Figures 3D-3F), it is unclear how the pusher button would necessarily be moved a distance sufficient to permit orientation of the stopper in the within the pusher button locking cavity (351). Applicant has not disclosed structure to prevent the continuous sidewall of the pusher button from engaging the outer switch member. It appears applicant has failed to illustrate means, such as a slot or cut-out, in the push button sidewall for receiving the portion (not illustrated) of the outer switch member (431) extending through the slot (37), into the housing internal cavity (211) and connected to the stopper (433).

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**Claim Rejections - 35 USC § 102**

**The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

**A person shall be entitled to a patent unless –**

**the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.**

**the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

**he has abandoned the invention.**

**the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.**

**the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.**

**the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.**

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

**Claims 1,4,5,7,9 and 13: rejected under 35 U.S.C. 102(a)**

Claims 1,4,5,7,9 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Japanese '030 (JP 06-18030).

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Japanese '030 shows (figure 2) a gas lighter including a spring biased locking member (19) extending through a safety slot (not referenced) in the lighter housing (21) and having a stopper (23) for blocking downward movement of a pusher button (6) by engaging a stop post (17) extending from a bottom of a top wall (6c) of the pusher button (6c). Operation of the gas lighter is permitted when the locking member is moved out of engagement with the stop post and into a cavity (not referenced), by operation of a driver member (22) attached to the locking member and externally located of the slot.

**Claims 1-5,7-11,13 and 14: rejected under 35 U.S.C. 102(b)**

Claims 1-5, 7-10,13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito (U.S. Patent No. - 5437549)

Saito shows a gas lighter including a spring biased locking member (6) extending through a safety slot (31) in the lighter housing (3) and having a stopper (62) for blocking downward movement of a pusher button (5) by engaging a stop post (53) extending from a bottom of a top wall of the pusher button (54). Operation of the gas lighter is permitted when the locking member is moved out of engagement with the stop post and into a cavity (54), by operation of a driver member (61) attached to the locking member and externally located of the slot. A member (55) is spaced from and parallel to the post (53) to define a slot for receiving the stopper (62) there between. The member (55) is deemed the structural equivalent to applicant's broadly claimed "guider latch" which is assigned no particular shape or form and therefore does not distinguish the claimed invention over the prior art member (55).

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**Claims 1-5,7-16: rejected under 35 U.S.C. 102(b)**

Claims 1-5 and 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cirami (U.S. Patent No. - 4830603)

Cirami shows a gas lighter including a spring biased locking member extending through a safety slot (61) in the lighter housing (15) and having a stopper (59,60) for blocking downward movement of a pusher button (31) by engaging a stop post (64) extending from a bottom of a top wall of the pusher button (31). Operation of the gas lighter is permitted when the locking member is moved out of engagement with the stop post (64) and into a cavity (78), by operation of a driver member (39) attached to the locking member and externally located of the slot (61). A guider latch (70,71,74,75) is spaced from and parallel to the post (64) to define a slot (72) for receiving the stopper (59,60) there between. The guider latch (figure 4) includes a taper/slanting surface (75) extending toward the stop post and arranged to bias the top of the stopper for providing forcing he stopper against a side wall (73) of the stop post (64).

**Conclusion**

See the attaché PTO form 892 for prior art made of record and not relied upon that is considered pertinent to applicant's disclosure.

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 703-308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1148/0858.

A handwritten signature in black ink, appearing to read 'Carl D. Price', with a long horizontal stroke extending to the right.

CARL D. PRICE  
Primary Examiner  
Art Unit 3743

cp  
June 23, 2003